

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION**

**BANKERS STANDARD  
INSURANCE COMPANY,**

Plaintiff,

v.

**OCONEE PORTER INSULATION,  
INC.,**

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

CIVIL ACTION FILE

NO. \_\_\_\_\_

**COMPLAINT FOR PROPERTY DAMAGE**

Bankers Standard Insurance Company sues Oconee Porter Insulation, Inc. as follows:

**THE PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Bankers Standard Insurance Company is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania.

2. Oconee Porter Insulation, Inc. is a Georgia corporation with its principal office at 75 Story Street, Jefferson, Georgia 30549. Defendant Oconee Porter Insulation, Inc. may be served with process by service upon its registered agent: David Keith Porter, 75 Story Street, Jefferson, Georgia 30549.

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 because there is diversity of citizenship between the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to this claim occurred in this judicial district.

### **ALLEGATIONS OF FACT**

5. This action arises from the December 20, 2017 fire at the home of Brian Scott Fogel located at 1990 Elder Mill Road, Watkinsville, Georgia.

6. The fire caused in excess of \$500,000 in damage to Fogel's home.

7. At all times material to this complaint, Plaintiff Bankers Standard provided insurance to Fogel covering his home.

8. Pursuant to its contract of insurance, Bankers Standard has indemnified Fogel for losses arising from the fire, and may indemnify him in the future for additional losses.

9. Bankers Standard's investigation showed that the fire originated in the chimney chase for a prefabricated fireplace installed on an exterior wall of the home.

10. The cause of the fire was the improper installation of the fireplace flue system and chimney termination.

11. The improper installation of the flue system and chimney cap termination did not allow for proper cooling of the flue system and allowed hot gasses and embers to exhaust inside the chimney chase.

12. The fireplace, flue system and chimney termination were installed by Defendant Oconee Portion Insulation, Inc.

13. Pursuant to its contractually required indemnification of Fogel, Plaintiff Bankers Standard is subrogated to all rights, claims, and causes of action against all persons and entities responsible for the December 20, 2017 fire.

### **NEGLIGENCE**

14. Oconee Porter Insulation, Inc. owed a duty to all parties who could foreseeably be harmed by its work to install the fireplace in Fogel's home in a reasonably safe and non-negligent manner.

15. Oconee Porter Insulation, Inc. breached its duties by:

- A. Failing to properly install the flue system for the fireplace with all required components to allow for proper cooling of the flue system and to prevent exhausting of hot gasses and embers into the chimney chase;
- B. Failing to properly supervise the work of its employees and agents involved in the installation of the fireplace;

- C. Failing to properly train its employees and agents involved in the installation of the fireplace; and
- D. Other acts or omissions as discovery may reveal.

16. As a direct, proximate, and foreseeable result of Defendant Oconee Porter Insulation, Inc.'s breach of duty and negligent, Fogel and consequently Bankers Standard Insurance Company have been harmed in an amount in excess of \$500,000.

17. WHEREFORE, Plaintiff Bankers Standard Insurance Company prays that:

- A. Process issue and be served upon Defendant Oconee Porter Insulation, Inc., compelling it to appear and answer this Complaint;
- B. Plaintiff Bankers Standard Insurance Company have judgment in its favor against Oconee Porter Insulation, Inc. in an amount to be specifically proven at trial, plus all interest, costs, and expenses to which it is entitled; and
- C. All other relief allowed by law and equity.

This 3rd day of April, 2018.

s/ David M. Bessho

David M. Bessho

Georgia Bar No. 055784

Cozen O'Connor

The Promenade, Suite 400

1230 Peachtree Street, N.E.

Atlanta, Georgia 30309

Telephone: (404) 572-2000